

**UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO**

<p>In re:</p> <p>THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO,</p> <p style="text-align: center;">as representative of</p> <p>THE COMMONWEALTH OF PUERTO RICO, <i>et al.</i>,</p> <p style="text-align: center;">Debtors.¹</p>	<p>PROMESA Title III</p> <p>No. 17 BK 3283-LTS</p> <p>Re: ECF Nos. 3019, 3332, 3333</p> <p>(Jointly Administered)</p>
<p>In re:</p> <p>THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO,</p> <p style="text-align: center;">as representative of</p> <p>THE COMMONWEALTH OF PUERTO RICO,</p> <p style="text-align: center;">Debtor.</p>	<p>PROMESA Title III</p> <p>No. 17 BK 3283-LTS</p> <p>This Urgent Motion relates to the Commonwealth, HTA, and PREPA, and shall be filed in Case Nos. 17 BK 3283-LTS, 17 BK 3567-LTS, and 17 BK 4780-LTS.</p>
<p>In re:</p> <p>THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO,</p> <p style="text-align: center;">as representative of</p> <p>PUERTO RICO HIGHWAYS AND TRANSPORTATION AUTHORITY (“HTA”),</p>	<p>PROMESA Title III</p> <p>No. 17 BK 3567-LTS</p> <p>Re: ECF Nos. 455, 456</p>

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747). (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

Debtor.	
In re: THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, as representative of PUERTO RICO ELECTRIC POWER AUTHORITY, Debtor.	PROMESA Title III No. 17 BK 4780-LTS

URGENT MOTION FOR EXTENSION OF DEADLINES

To the Honorable United States District Court Judge Laura Taylor Swain:

The Puerto Rico Fiscal Agency and Financial Advisory Authority (“AAFAF”), on behalf of the Puerto Rico Highways and Transportation Authority (“HTA”), pursuant to the authority granted to it under the *Enabling Act of the Fiscal Agency and Financial Advisory Authority*, Act 2-2017, respectfully submits this urgent motion for entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Proposed Order”), extending the deadlines set forth in the *Order Granting Urgent Joint Motion for Extension of Deadlines in Connection with Autonomous Municipality of Ponce’s Motion for Partial Lift of Stay* [ECF No. 3333 in Case No. 17-3283, ECF No. 456 in Case No. 17-3567] (the “Amended Scheduling Order”).²

Request for Relief

1. On May 4, 2018, the Movant filed the *Motion for Partial Lift of Stay* [Case No. 17 BK 32830, ECF No. 3019] (the “Motion”), seeking relief from the automatic stay to allow the the

² The Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), as the Debtors’ representative pursuant to section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* (“PROMESA”), has authorized AAFAF to file this urgent motion on behalf of HTA.

case captioned *Municipio de Ponce vs. ACT, et al*, Case No. JAC1993-0485 (the “Prepetition Action”), before the Puerto Rico First Instance Court (the “Commonwealth Court”) to proceed, except for any evidentiary hearing on damages, and for the judgment entered on June 24, 1996 in the Prepetition Action before the Commonwealth Court (the “Prepetition Judgment”) to be enforced, except for any judgment or settlement for damages. Motion ¶¶ 9, 15.

2. The Prepetition Judgment requires HTA, among others, to complete all construction projects detailed in a prepetition *Agreement for the Development of Programed Projects between the Central Government and the Municipality of Ponce*, dated October 28, 1992 (the “Development Agreement”).

3. On June 21, 2018, the Court entered the Amended Scheduling Order, which provides that opposition papers to the Motion must be filed by July 5, 2018, and Movant’s reply papers must be filed by July 12, 2018.

4. HTA is still in the process of reviewing the pertinent information regarding the facts alleged in the Motion in an effort to consensually resolve Movant’s request in the Motion.³ As a result, HTA needs additional time to finalize said analysis. In consideration of the foregoing, HTA respectfully requests the following extensions of the deadlines set forth in the Amended Scheduling Order:⁴

³ The projects under the Development Agreement with respect to HTA are separate and independent from the projects for the Commonwealth and PREPA.

⁴ There is a reasonable likelihood, pursuant to Bankruptcy Code section 362(e), that HTA would prevail in its opposition to the Motion for the reasons stated in the Objection, and accordingly, the Court may extend the stay pending final determination of the Motion. *See* 11 U.S.C. § 362(e). Specifically, Movant failed to show cause to lift the automatic stay: (i) Movant does not identify any bankruptcy issue related to the Title III cases that would be resolved by allowing Movant to enforce the Prepetition Judgment (Objection ¶ 12); (ii) lifting the stay would interfere with HTA’s Title III case by requiring HTA to expend tens of thousands of dollars to fund the Commonwealth Court-appointed monitor (*see* Objection ¶¶ 12-13); (iii) no specialized tribunal has been appointed in the Prepetition Action (Objection ¶ 14); (iv) no insurance carrier has assumed full financial responsibility for defending the Prepetition Action nor compliance with the Prepetition Judgment (Objection ¶ 15); (v) the Prepetition Action does not essentially involve third parties, but rather, Title III debtors, the Commonwealth, PREPA, and HTA (Objection ¶ 17); (vi) lifting the stay would prejudice the interest of other creditors by diverting resources away from HTA and to complying with the Prepetition Judgment (*see* Objection ¶ 18-19); (vii) lifting

- The deadline for HTA to file an opposition to the Motion, or to otherwise respond, shall be extended to **July 12, 2018**.
- The deadline for Movant to file a reply to any opposition filed by HTA shall be extended to **July 19, 2018**.

5. In the alternative, if this Court denies HTA's request for extension, HTA joins the *Objection of the Commonwealth to Motion for Partial Lift of Stay by Autonomous Municipality of Ponce* (the "Objection"), filed on July 5, 2018 by the Commonwealth of Puerto Rico [ECF No. 3439], and adopts the factual and legal arguments set forth in the Objection. The modification of the Title III Stay would require HTA to spend tens of thousands of dollars annually to fund the costs of the Commonwealth Court-appointed monitor to audit the completion of the projects under the Development Agreement⁵ to fulfill its obligations under said agreement pursuant to the Prepetition Judgment.

6. Pursuant to Paragraph 1.H of the *Fourth Amended Notice, Case Management and Administrative Procedures* [Case No. 17 BK 32830 ECF No. 2839-1] (the "Case Management Procedures"), HTA hereby certifies that it has carefully examined the matter and concluded that there is a true need for an urgent motion; they it has not created the urgency through any lack of due diligence; has made a bona fide effort to resolve the matter without a hearing; and has made reasonable, good-faith communications in an effort to resolve or narrow the issues that are being brought to the Court.

the stay would not advance the interest of judicial economy because judgment has already been entered in the Prepetition Action (Objection ¶ 20); (viii) HTA would be required to expend additional resources for any proceedings in connection with compliance with the Prepetition Judgment (*see* Objection ¶ 21); and (ix) the balance of harms weighs in favor of HTA because HTA would be required to expend tens of thousands of dollars to comply with the Prepetition Judgment while Movant has not stated how denial of its Motion would cause it any harm (Objection ¶ 22).

⁵ Capitalized terms used but not otherwise defined herein have the meanings given to them in the Objection.

Notice

7. HTA has provided notice of this motion in accordance with the Case Management Procedures to the following parties: (a) the Office of the United States Trustee for the District of Puerto Rico; (b) the indenture trustees and/or agents, as applicable, for the Debtors' bonds; (c) the entities on the list of creditors holding the 20 largest unsecured claims against COFINA; (d) counsel to the statutory committees appointed in these Title III cases; (e) the Office of the United States Attorney for the District of Puerto Rico; (f) counsel to the Oversight Board; (g) the Puerto Rico Department of Justice; (h) the Other Interested Parties;⁶ (i) all parties filing a notice of appearance in these Title III cases; and (j) Movant. A copy of the motion is also available on the Debtors' case website at <https://cases.primeclerk.com/puertorico/>.

8. HTA hereby submits that, in light of the nature of the relief requested, no other or further notice need be given.

WHEREFORE, HTA respectfully requests that the Court enter the Proposed Order and grant such other relief as is just and proper.

Dated: July 5, 2018
San Juan, Puerto Rico

⁶ The "Other Interested Parties" include the following: (i) counsel to certain of the insurers and trustees of the bonds issued or guaranteed by the Debtors; and (ii) counsel to certain ad hoc groups of holders of bonds issued or guaranteed by the Debtors.

Respectfully submitted,

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Exhibit A

Proposed Order

